

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LEO J. SCHWARTZ, III,

Plaintiff,

v.

No. CIV 08-0228 MCA/RLP

CLINT WELLBORN, Socorro County
District Attorney (sued in his individual and
official capacities); et al.,

Defendants.

ORDER

This matter is before the Court, on remand from the Court of Appeals for the Tenth Circuit and *sua sponte* under 28 U.S.C. § 1915. This pro se Plaintiff was incarcerated when he filed his complaint and was granted leave to proceed in forma pauperis. According to the record he is no longer incarcerated. The Court will require Plaintiff to submit a new motion and affidavit for leave to proceed under 28 U.S.C. § 1915. *See Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir. 1988) (“past decisions regarding one’s pauper status are not determinative of one’s present financial condition.”); *Murphy v. Jones*, 801 F. Supp. 283, 288-89 (E.D. Mo. 1992) (noting that IFP status may be revoked if “assistance under § 1915 is no longer justified. . . [by] plaintiff’s financial condition”).

IT IS THEREFORE ORDERED that, within fourteen (14) days from entry of this Order, Plaintiff submit a new, fully completed motion and affidavit for leave to proceed under 28 U.S.C. § 1915; and the Clerk is directed to send Plaintiff a non-prisoner form motion and affidavit with a copy of this Order.


UNITED STATES MAGISTRATE JUDGE